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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,

Case No. 2:11 CR 432 DN

Plaintiff,

vs.

FINDINGS OF FACT  
FINDING OF GUILT

AARON HEINEMAN

District Judge David Nuffer

Defendant.

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***Procedural Background***

This matter was brought before this Court as a stipulated bench trial. Before proceeding to trial the Court advised Mr. Heineman of his right to proceed to a jury trial. Mr. Heineman and counsel acknowledged that they were proceeding in this fashion as a chosen strategy to preserve the legal issues raised in this Court's opinions in Docket #40, 51, and 52.

***Findings of Fact***

Victim "V," at all relevant times during this matter, was a professor at the University of Utah, and head of the University's Office of Equity and Diversity.<sup>1</sup> On May 3, 2011, Victim "V" received an email from the address [siegheil\\_neocon@yahoo.com](mailto:siegheil_neocon@yahoo.com) entitled "Poem."<sup>2</sup> During 2010, Victim "V" had received two prior non-threatening emails from this same email

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<sup>1</sup> Government's Exhibit #1.

<sup>2</sup> *Id.*

address.<sup>3</sup> These prior emails did not contain threats, but did espouse a white supremacist ideology.<sup>4</sup>

The May 3, 2011, email read:

“Octavio  
prattles and complains about the enforcement at the press conference  
You say, sue! sue! sue!  
pretending to be righteous  
Protecting the subrace  
as the professor who specialize in division  
As the proponent of Critical Race Theory  
ethnocentric you are, as the pride  
Piece of unholy shite you are  
communist die-hard, promoting destabilization  
Of the society, which you condemn "Whitey! deracinate and exterminate by displacement!"  
lover of illegal aliens and Mestizo subrace  
Cheerful when the agenda is achieved  
to demoralize and ruin the "Whitey" society  
In association with the Communists  
to satiate your bloodlust for the violence of Aztlan!  
Come the time of the new revolution  
we will convene to detain you  
And slay you, by a bowie knife shoved up into the skull from your pig chin  
you choke, with blood flooding in your filthily treasonous throat!  
We put the noose ring around your neck  
and drag you as you choke and gasp  
The noose laid on the tree branch  
and the fate hath conferred justice for Treason  
You are a filthy traitor along the horde of anti-American and anti-Whitey comrades  
whose justice shall come to be delivered  
To fuck the traitors, for justice!  
fuck Mexico! fuck South America!  
Fuck your soul to Hell!  
Into the furnace pool of MexiShit as the filthily traitorous asshole and puta!”<sup>5</sup>

Upon receiving the May 3, 2011, email, Victim “V” felt he and his family were in danger

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

of bodily injury from the individual who sent this email.<sup>6</sup> Victim “V”’s first name is “Octavio.”<sup>7</sup>

Law enforcement investigated the email recieved by Victim “V” and the IP address used to send the May 3, 2011, “Poem” email resolved to Utah Valley University.<sup>8</sup> Specifically, records indicated that the IP address was assigned to “Aaron Heineman.”<sup>9</sup> Further records from Yahoo! provided by Jesus Villicana indicated that all communications from the [siegheil\\_neocon@yahoo.com](mailto:siegheil_neocon@yahoo.com), traveled outside of the State of Utah.<sup>10</sup>

Officer Adam Smith, of Utah Valley University, would testify that on May 12, 2011, he approached Aaron Heineman, communicating in writing, and Mr. Heineman responded immediately, “Is this about the email?”<sup>11</sup>

### ***Discussion***

The Court concludes that the above facts support finding Mr. Heineman guilty of Count I of the Indictment, Sending a Threatening Communication in Interstate Commerce.

As this Court has noted, violations of 18 U.S.C. § 875(c) require the Government establish two elements:

(1) That the defendant knowingly transmitted a communication containing a threat to injure the person of another, in this matter Victim “V;” and

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Government’s Exhibit #3.

<sup>9</sup> *Id.*

<sup>10</sup> Government’s Exhibit #2.

<sup>11</sup> Government’s Exhibit #4.

(2) that the communication traveled in interstate commerce.<sup>12</sup>

The Court finds that the evidence supports the finding that Mr. Heineman is the individual who sent this email. Both the IP trace back to “Aaron Heineman” and the statement by Mr. Heineman confirm his identity as the sender of the “Poem” email.<sup>10</sup> The stipulated evidence also supports finding that the “Poem” email traveled outside of the State of Utah and that the email was received in Salt Lake City, Utah.<sup>12</sup>

The Court further finds that the evidence supports a finding that Mr. Heineman sent this email “knowingly” as required under Tenth Circuit law.<sup>13</sup> Specifically, the use of the victim’s first name in the “Poem” email, and Mr. Heineman’s acknowledgement of sending the “email” when confronted by law enforcement, demonstrate that he comprehended the meaning of his actions when he sent the email, and that that Mr. Heineman intended to send the email to Victim V and sent it voluntarily.<sup>14</sup>

The Court finds that the “Poem” email is a “true threat.”<sup>15</sup> The email specifically described the use of a “bowie knife” to “slay” the victim.<sup>16</sup> It also described putting a “noose”

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<sup>12</sup> Docket #40.

<sup>10</sup> Government’s Exhibits #3,4.

<sup>12</sup> Government’s Exhibit # 1 and 2.

<sup>13</sup> *See* Docket #40.

<sup>14</sup> *Id.*, Government’s Exhibits #1 and 4.

<sup>15</sup> Docket #40, 51, 52.

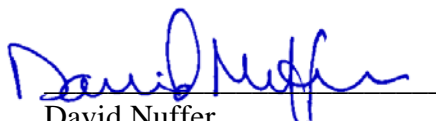
<sup>16</sup> Government’s Exhibit #1.

around the victim's "neck."<sup>17</sup> In addition, the "Poem" email when viewed as a whole, including the fact that the sender used the email address "sieg\_heil," referencing Nazi beliefs, contained a hostile tone, and would cause a reasonable person to conclude that the sender of the email – in this case Mr. Heineman – intended to cause bodily injury. The Court finds that the victim reasonably feared bodily harm at the time of the receipt of this email.<sup>11</sup>

This email expressed an intent by the sender to harm the victim, and was not "careless" or "joking" in tone. To the contrary the message conveyed in the email was hostile, and violent.<sup>12</sup> Furthermore, the context of these emails, in light of the two prior emails from the "sieg\_heil" account espousing racist ideology, further support the conclusion this message conveyed a serious, real threat to cause bodily injury. Accordingly, this Court concludes that a reasonable person would fear bodily injury upon receiving this email.

In light of this Court's prior rulings in Docket #40, 51, and 52, and in light of the stipulated evidence presented to this Court, the Court finds the defendant Aaron Heineman guilty of violating 18 U.S.C. § 875(c).

Dated this 6th day of March, 2013.

  
David Nuffer  
United States District Court

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<sup>17</sup> *Id.*

<sup>11</sup> Government's Exhibit #1.

<sup>12</sup> *See* Docket #40.